

REMARKS/ARGUMENTS

This is responsive to the Official Action of March 5, 2010.

Two issues are raised in the outstanding Official Action. The first deals with a Terminal Disclaimer filed October 19, 2009 which was found to be deficient for the reasons indicated in item 2 of the Official Action.

Submitted herewith is a new Terminal Disclaimer with the appropriate wording. Since the previous Disclaimer was not recorded the recordal fee paid at that time should be applied to this new Terminal Disclaimer.

The second item in the Official Action relates to a rejection of all pending claims based upon an alleged anticipation provided by a German abstract. Before addressing the rejection on the merits it is appropriate to understand the legal requirements to establish anticipation.

To anticipate a claim, a single reference must disclose the claimed invention with sufficient clarity to prove its existence in the prior art. *Motorola Inc. v. Interdigital Technology Corp.*, 43 USPQ2d 1481, 1490 (Fed. Cir. 1997). Anticipation rejections are only proper when the "claimed subject matter is identically disclosed or described in 'the prior art,' without *any* need for picking, choosing, and combining various disclosures not directly related to each other by the teachings of the cited reference." *In re Arkley*, 172 USPQ 524, 526 (CCPA 1972); *see also Akzo N.V. v. International Trade Commission*, 1 USPQ 2d 1241, 1246 (Fed. Cir. 1986); *Ex parte Lee*, 31 USPQ 2d 1105, 1108 (BPAI 1993). Every element of the challenged claim must be disclosed within this single reference. *PPG Industries Inc. v. Guardian Industries Corp.*, 37 USPQ2d 1618, 1624 (Fed. Cir. 1996). Absence from the reference of any claimed element negates anticipation *Kloster Speedsteel AB v. Crucible Inc.* 23 USPQ 160 (Fed. Cir. 1986).

Thus, applicant's claims are patentable over the cited reference since it fails to disclose each element of applicant's claims.

Turning now to the content of the applied document and consideration of the rejection on the merits, DE 3506132 discloses a fire protection element for coating building parts made using a water glass and an organic binder. The water glass is formulated into a hydrogel comprising from 1-12% by weight of silicon dioxide and from 0.25-6% by weight of sodium oxide. Finally there is up to 14 weight% of reaction products of an organic and/or inorganic acid which reacts to form a gel with the sodium water glass.

In somewhat sharp contrast, applicant's claim 1 is limited to a method for protecting an entity from the effects of an explosion or from the effects of contact with a projectile by covering at least part of that entity in a barrier formed from gelatin and water.

The German prior art does not discuss prevention of damage caused by explosions or projectiles. Fire protection is not the same as preventing damage from the shockwave of an explosion or from power of a projectile. There are many, many fire prevention substances on the market, such as foam, which are excellent at stopping fires burning. They are completely useless in the face of an explosion or in the face of a projectile. Applicant does not therefore see any suggestion that the material in the prior art could actually be used to prevent damage from an explosion or from projectile.

Even more significantly, applicant's claims are limited to the use of gelatin. The German prior art concerns the formation of a water glass of silicon dioxide, sodium oxide and an organic acid. There is no disclosure in this document that the combination of gelatin and water offers a solution to the problem of claim 1.

The claims have been rejected under 35 USC §102(b) i.e. that they lack novelty. To be of merit the examiner must see therefore a disclosure of gelatin in the prior art -- but there isn't one. The prior art neither discloses the necessary method nor the necessary material. Even if it could be argued that applying a hydrogel to a building surface constitutes a method for protecting that surface from explosions, there is still no disclosure of the necessary gelatin/water gel in the prior art. As the examiner herself notes, the materials used to form the gel in the prior art do not include gelatin.

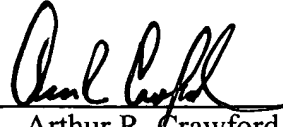
For the above reasons it is respectfully submitted that all pending claims define novel subject matter. Reconsideration and allowance are solicited. Should the examiner require any further information, please contact the undersigned.

LEIVESLEY
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Respectfully submitted,

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